Performance and Outcomes Measurement Project

Preliminary Report

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Introduction

The Legal Services Corporation (LSC) is charged with ensuring "the maintenance of the highest quality of service" and with making grants "so as to provide the most economical and effective delivery of legal assistance to persons in both urban and rural areas."[2] In compliance with this charge, the LSC Board of Directors adopted a strategic plan in January 2000.[3] LSC's goals articulated in that plan include dramatically increasing the provision of legal services to eligible persons and ensuring that clients receive appropriate and high-quality legal assistance. The plan describes a multi-faceted strategy which includes "defining qualitative expectations for effective client service, taking steps to ensure that grantees meet those expectations and *developing the means to evaluate the impact that legal services programs have on clients' lives*."[4] LSC's objectives include "ensuring quality and accountability through programmatic oversight."[5] The implementation of this strategic plan requires that LSC "design a new management information system to obtain more complete and accurate information about the quality and level of work performed by each grantee and *about outcomes achieved for clients*."[6]

In adopting this results-based approach, the LSC Board aligned with the philosophy behind the Government Performance and Results Act of 1993 (GPRA).[7] GPRA requires all federal agencies to develop and maintain mission statements, goals (including outcome-related goals), plans for achieving those goals, and regular evaluations to determine whether those goals are met. GPRA's goals include improving federal government effectiveness and increasing confidence in government.

LSC uses a number of tools to comply with this results-based, performance measurement mandate, including the grant application process, the LSC Performance Criteria, and the American Bar Association Standards for Providers of Legal Services to the Poor. LSC has developed evaluations for its state planning initiative and for the Technology Initiative Grant program. This Outcomes, Performance Measures, and Quality Assessment Project is also part of LSC's continued work to ensure high quality, economic and effective legal services to low income people throughout the country.[8]

In January 2002 LSC retained a consultant to research the current state of outcomes measurement in legal services and in related fields. The findings of that research are preliminarily presented in this report. This preliminary report is issued for discussion purposes only, and is not the final product of this project. This report does not reflect any position of LSC, but is presented to LSC and to those attending the Summit described below as a resource and to facilitate discussion.

The ideas presented by the consultant in this report are derived from the literature regarding outcomes as well as from the input received during the interviews. Part I discusses the process used for the research. Part II presents information about outcomes and outcomes measurement. Part III discusses the value of measuring outcomes for programs and funders. Part IV describes the current state of outcomes measurement, both within and outside legal services. Part V is a discussion about what outcomes should be measured in legal services. Part VI presents several issues to be considered. Finally, Part VII presents several options for next steps.

I. PROCESS

The research conducted for this project consists of four parts: a) structured interviews; b) research of current practices; c) a Summit on Outcomes, Performance Measures and Quality Assessment, to be held June 21 in Cambridge, Massachusetts; and d) additional research and/or interviews, as indicated by the summit. Following completion of the research a final report will be issued. The purpose of the final report will be to inform LSC's decision regarding what additional steps it should take to ensure that its grantees measure outcomes for clients. The purpose of this preliminary report is to facilitate discussion of this topic.

- **Structured Interview.** The consultant interviewed 90 people using a structured interview. (See Appendix A). The persons interviewed were a diverse group and included legal services staff (executive directors, administrators, managing attorneys, resource development directors and technology personnel), LSC staff, funders, national legal service leaders, evaluators, academics, judges and bar leaders. Many of the ideas presented in this paper were articulated by the people interviewed. The people interviewed shared their time and ideas generously and the author is indebted to them. Each of these individuals was asked for their input in four areas: a) the benefits, difficulties and limitations of measuring outcomes; b) the kinds of outcomes that should and can be measured; c) the best ways to measure outcomes; and d) possible roles for LSC in outcomes measurement. The interview was also posted on the web at www.lri.lsc.gov and the legal services community was invited to provide input by completing the interview.

- **Research of current practices**. The consultant also researched the current state of outcomes measurement within legal services and in other disciplines. This research included a Request for Information published by the Legal Services Corporation, information provided by those who were interviewed, and information from legal services, medicine, education, social services, academia and government. A list of the documents included in the research is attached as Appendix B.

- **Summit on Outcomes, Performance Measures and Quality Assessment**. On June 21, 2003, LSC and the Hale and Dorr Legal Services Center at Harvard Law School will convene a Summit on Outcomes, Performance Measures and Quality Assessment. LSC invited a small group of equal justice leaders from around the country and the United Kingdom to the day-long event. Several persons attending will present papers. A list of those attending the Summit and the Summit Agenda are attached as Appendices C and D.

- **Additional Research and/or Interviews**. Following the Summit the consultant will conduct additional research and / or interviews, as needed.

II. WHAT ARE OUTCOMES?

For the purpose of this paper the term outcomes refers to the impact that an organization's work has on the lives of its clients or on the broader community. By measuring outcomes we are able to answer the basic question: Is the program achieving its goals? The term outcome is often used as part of a program logic model which includes:

- inputs (resources, staff time, physical space, volunteer time, case management system);
- activities (what the program actually does, the strategies used, i.e. represent clients, provide pro se assistance or give advice);
- outputs (services or products produced, i.e. # of eviction cases, # of clients given consumer advice); and
- outcomes (an event, occurrence, or condition that is outside the activity or program itself and that is of direct importance to customers and the public generally, i.e. client obtains safe housing or client retains job).[9]

In developing logic models organizations must examine what their goals are and how they plan to achieve those goals. The program logic model provides a framework to articulate, through words and often diagrams, what a program does and why it does it. The logic model illustrates the organization's belief that if it expends certain resources on specific activities it will accomplish articulated outputs which will lead to the desired outcomes for its clients. To put a

logic model to use the organization must determine how it will know whether the outcomes have been achieved (the outcome indicators) and how it will collect the data required to determine the level of outcomes achieved. The program can then analyze the data collected and learn from them to improve services to clients. Tracking outcomes can tell you what difference a program makes. It does not, however, tell you how or why.

Outputs and outcomes are often confused. Outputs are what happen within the organization, viewed from the program's perspective. Outcomes are viewed from the client's perspective. An output would be 100 eviction cases handled. The corresponding outcome might be that 84 families stayed in their homes, thereby keeping jobs, staying in school, maintaining stability of the neighborhood. By tracking data on inputs, activities, outputs and outcomes a program or funder has a more complete picture of an organization's work. Which outcomes an organization measures depends on the organization's goals. Organizations may measure a number of different outcomes and may change the outcomes they measure over time as priorities and organizational goals change. Focusing on outcomes keeps an organization client-centered.[10]

Outcomes can be divided into initial, intermediate and final outcomes.[11] Initial and intermediate outcomes are generally necessary to achieve the final outcome. An initial outcome in legal services might be the clients' ability to make it through the intake system. An intermediate outcome might be client satisfaction with the services delivered. A final outcome might be whether a client maintains her housing after threatened with eviction.

Outcomes are one way to measure performance and evaluate a program's progress toward its goals. By projecting the outcomes it will achieve in the coming month, quarter or year, the program has a map against which to measure itself. Outcome data do not alone provide a whole picture. The fact that a program produces positive outcomes does not necessarily mean that the program provided quality services or allocated its resources appropriately. Nor do negative outcomes necessarily correlate to poor quality work. Outcome data must be used in conjunction with other information to determine whether a program is providing high quality, efficient and effective legal services.[12]

One limitation of outcomes is that programs never have total control over whether they achieve their goals. Intervening factors may prevent or even contribute to a positive outcome. There is never an absolutely certain and total nexus between the work a program does and the outcome. Clients sometimes do not follow the advice of their attorneys; the best articulated argument does not always prevail; and the law and facts are not always on our side. Take, for example, the client who calls a program seeking assistance because her car has been repossessed. The staff attorney determines that the car dealership has acted illegally in repossessing the car. The program does not have the resources to represent the client but the attorney gives good, thorough and understandable instructions to the client describing how she can challenge the repossession and get her car back. The client does not follow the instructions but instead borrows enough money from her grandmother to pay the car off, goes to the dealership, gives the dealer the money, and gets her car back. The client got her car back, but not, seemingly, because

of the advice given by the program. The nexus between the outcome and the service from the program is tenuous at best.

Another limitation is that legal services programs will not always have the ability or capacity to measure everything it does that is valuable. For example, a program that represents clients in domestic violence cases will not be able to measure the psychological impact on the children and the affect that has on their performance in school. This limitation is experienced by every type of program which tries to measure its outcomes.

This process of developing a logic model and tracking and processing data is not a science; this is a way to produce information that must then be put to use to be valuable. Programs are not guaranteed that by measuring outcomes they will deliver higher quality legal services or have a greater impact on their clients' lives, but if programs do not measure outcomes they will not know whether they achieve their goals and will have fewer tools to improve the quality of their work and outcomes for their clients.

III. BENEFITS OF MEASURING OUTCOMES

The process of measuring outcomes and the information gathered have many benefits for both funders and programs.[13] These benefits often but do not always overlap. Various benefits of measuring outcomes for legal services programs and their funders are described below.

➢ **Funders**

❖ **Good stewardship.** By requiring grant recipients to report the outcome of the work it funds the grantor helps ensure that it is a good steward of the grant funds.
- All grantors, including the United Way, foundations, and state, local or federal government, are administered by people who are responsible for ensuring that the funds are used in the way in which they are intended by the giver, whether it is the original donor, the city council, or Congress. Outcomes provide information to the funder indicating whether its grantees accomplish the goals intended by the funder in making the grant. If the funder's goal in making the grant is to achieve particular outcomes rather than simply to provide a service, outcome reports contain more relevant information than reports solely on outputs.

❖ **Capacity-building.** Funders have an interest in ensuring that programs operate effectively and develop additional capacities to achieve their goals. Programs that undergo planning processes in which they develop logic models, gather data and learn from that data are better positioned to improve services and use resources more

effectively. This process and the capacities that it develops are therefore of value to funders regardless of the specific outcomes achieved.

❖ **Fundraising and Reporting.** All funders must explain how they spent their money. They must report to foundation boards, to city councils or to Congress. They must justify the funds expended and often raise more funds. Outcomes put the work of programs in real terms and are useful for those reports and fundraising efforts.

- Prevented homelessness for 84 families is more meaningful than handled 100 evictions. Outcome information is easily understood by those who are not familiar with legal services or with legal work in general. Outcome data help explain what lawyers do for poor people.[14]

❖ **Best Practices.** An important role for any funder is to ensure that its various grantees learn from each other. Outcome information can help a funder develop knowledge of best practices and share that knowledge with all grantees. By measuring the various elements of the logic model programs can learn which activities result in the intended outcomes. This knowledge can help other programs use the funder's resources more effectively. Funders can also use this information to provide technical assistance to grantees as they work to improve the outcomes for clients.

➢ **Legal Services Programs[15]**

❖ **Resource Allocation.** Using reliable outcomes data can help programs make resource allocation decisions. There are currently not enough resources to ensure that all of the civil legal needs of low income people are met. Programs must therefore make decisions about which clients they will assist and which they will turn away. Programs must also decide which of a number of different types of delivery systems they should use in providing legal assistance. Outcome data linked to the correlating type of activity will provide evidence to programs about which service delivery models to develop and which cases to take.

- Most of the people interviewed for this project indicated that outcome data should be used to inform resource allocation decisions. A number of people also cautioned that resource allocation decisions should not be based solely on outcomes, but should also include input from the client community and partners in the state justice community. This caution is based on two things. First, even the most sophisticated outcome measurement system will not capture all of the outcomes a program achieves. Second, programs should consider other issues in allocating resources, including the need for the work, the roles played by different partners, and community priorities. These factors, along with information gained from measuring outcomes can be used together to make resource allocation decisions.

❖ **Triage.** By measuring outcomes in conjunction with inputs, activities and outputs, programs have more information to inform their decisions about which client to serve using which delivery system. When cases come through intake staff members must decide whether to accept the case for full representation, provide the applicant with advice, provide some other assistance short of full representation, or reject the applicant. For example, a program may prevent 84 clients from becoming homeless. Of those 84 clients, 60 were provided with full representation, 20 received advice and 4 were helped because the program trained case managers at the local food pantry to spot potential legal problems and help prevent them. The information about the outcomes for those clients together with the strategies used to achieve those outcomes will influence the triage of future cases. The more information programs have about which client can be served effectively using which delivery option, the better those triage decisions can be made.

  ▪ If a program has reliable information that a client who has a particular type of problem and certain characteristics (i.e. high school education, resides in a particular county, English is first language) is likely to obtain a good outcome when proceeding in court pro se, but another client with a different problem or characteristics will not, then the program can use that information to assist with its case triage. The program can advise the first client about how to proceed pro se and represent the second client in court. Both clients will have the greatest chance of obtaining positive outcomes and the program will have used its resources most effectively and efficiently.[16]

❖ **Effectiveness of Delivery Systems.** Programs can use information about outcomes to help determine whether particular projects or delivery systems help them achieve their goals. This is valuable information for programs with limited resources.

  ▪ If all clients represented in private eviction cases are always evicted, a program may determine that it should not put many resources into those kinds of cases because they use scarce program resources without helping clients retain their housing. If the program measured only outputs it would not have the data to determine whether its work in these cases was effective. While some patterns like this can be discerned anecdotally they are more easily discovered when outcome data is gathered.

❖ **Modification of service delivery.** Outcome data can also help programs modify and thereby improve their work to achieve better outcomes for clients and use resources more effectively. Outcomes measurement data can provide information about what is working and what is not working, but this information alone will not explain why or why not. Outcomes that do not reach a projected level raise a flag, indicating that further investigation is needed. There may be a number of reasons for negative outcomes including many beyond the control of programs, such as a change in the law, or due to a temporary condition, such as staff turnover. By examining negative outcomes and trying to determine the cause through examining the correlating information about the strategies used, inputs, and activities, programs may spot ways to improve outcomes in the future.

- The Hotline Study concluded that when clients received some kind of follow-up after receiving advice on the telephone clients were more likely to have positive outcomes.[17] With this information hotlines can justify adding a follow-up to their protocols and thereby improve outcomes for clients.

- Negative outcomes may highlight training needs for staff members, uses for technology that will give casehandlers access to additional tools, or other changes that will likely result in better outcomes for clients.

❖ **Best Practices.** By asking why an office or project achieved unusually positive outcomes for clients programs can develop their own knowledge of best practices and share it among staff members, offices and projects. This information can also be shared with other programs. Best practices are often shared within the legal services community but few of these have been tested in this way.

❖ **Morale Booster.** Outcomes for clients can be used effectively in feedback to staff, board members and volunteers to build morale. Outcome information gives meaning to the program's mission statement and goals. The board and staff will have a clear picture about how they have helped to achieve the program's goals.

❖ **Putting planning to the test.** To measure outcomes programs must undergo a planning process to determine what outcomes they will measure. Measuring outcomes becomes a key part of organizational and state justice community planning. Programs must ask what their goals are and how they will accomplish them. They must then determine how they will know whether they have achieved their goals. Measuring outcomes makes planning a necessary component of a program's work. It also puts the results of the planning processes to the test. Programs will have information they need to determine whether the activities in which they engage result in the outcomes they wish to achieve. This information can then be put back into the on-going planning process.

❖ **Fundraising**. By measuring outcomes programs can more easily articulate the value of their work in terms that will appeal to funders.

- Outcomes can humanize a program's work. A program measuring only outputs will explain that it represented 100 clients with consumer programs in court. A program measuring outcomes will explain that it helped 85 people retain their jobs by representing them in consumer cases.

❖ **Partnerships.** By viewing their work from the clients' perspective programs are compelled to develop partnerships that are required to achieve their clients' goals.

- If a program's goals include ensuring that domestic violence victims are safe in their homes then the program has an incentive to develop partnerships with other service

providers (i.e. domestic violence agencies) and government agencies (i.e. police departments) which can help it achieve that goal. In contrast, a program which focuses on the services it provides will see its work more narrowly because its goal is to obtain protective orders for its clients. The program can achieve its goal without partners. The very act of developing an outcome measurement system and the planning it involves changes the way the program approaches its work.

❖ **Information is power**. Outcome data can be used to advocate for systemic changes in clients' lives. For example, legal service programs often expend their resources to help clients get access to income or services by reducing barriers. Sometimes these barriers are erected unintentionally and when presented with information about them government agencies or other service providers will change practices to reduce those barriers.

▪ The Evaluation of the Health Consumer Alliance and the Health Rights Hotline discusses how those projects used the information they gathered about the barriers low income families encountered in accessing health care. The programs used their experience and information to provide training for support agencies, to disseminate information about the barriers, and to provide information to policy makers.[18]

❖ **Keeping eyes on the prize.** An important part of measuring outcomes is collating, reporting and analyzing the information the program gathers. These activities maintain focus on the programs' goals.

▪ This information can be discussed in regular staff and management meetings to ensure that mid-course corrections are made where necessary. These "how are we doing" meetings can prove to be a powerful management tool.[19]

IV. THE CURRENT STATE OF OUTCOMES MEASUREMENT

The movement toward measuring outcomes began over 10 years ago and in the last decade has developed and evolved. The lessons and experiences of the last decade are valuable. Program evaluations, including measurement and analysis of outcomes, are generally accomplished through self-evaluation, an outside evaluation initiated by the program, or an outside evaluation initiated by a third party. Each of these mechanisms for evaluation has its advantages. Below are examples of how programs and funders use these various methods of evaluation.

➢ **Legal Services Programs**

Many legal services programs currently measure outcomes for at least some of their cases. The consultant interviewed staff members of 27 different legal services programs. Of those programs, 24 reported that they track and report at least some outcomes although almost all of their outcome measurement is limited to casework. The types of outcomes recorded vary widely. Some programs record outcomes for all of their casework while others record outcomes only for projects funded by a grant that requires reports on outcomes.[20] Several programs collect different outcome information for different funders, resulting in systems that are complicated to develop, expensive to implement, and often difficult to use.[21] Some programs developed their own outcomes and outcome indicators while others capture the outcomes requested by their funders. Most programs developed their outcome measurement systems in an ad hoc way to collect information for funders or to develop public relations materials, not as part of a planning process.

Programs also use the outcome information they gather to varying degrees. Most program staff indicated that they use the information to raise money and account to funders. Although many of those interviewed stated that they thought outcome information could and should be used as part of their resource allocation planning and as a way to improve their work, few reported actually using it for those purposes.

➢ **Funders**

Most funders of legal services programs require or are developing an outcome measurement system although some are more comprehensive than others. Below are some examples of funders' involvement with outcomes.

❖ **LSC**

LSC requires a variety of information from its grantees. The Grant Activity Reports, which include the Case Service Report and the Matters Service Report, include data on inputs, activities and outputs. The 2004 LSC grant application requires applicants to describe their objectives and measurable outcomes achieved and their three most significant accomplishments over the last three years.

Evaluations are often viewed as necessary for new delivery systems such as those funded through the Technology Initiative Grant (TIG) program. LSC has funded the development of an evaluation system for TIG funded projects which includes some information about outcomes for clients. TIG grantees will use this tool to evaluate their projects. Similarly, LSC developed the State Planning Evaluation Instrument which measures the impact of state planning on the state justice community but does not include measurements on outcomes for clients.[22]

❖ **United Way**

The United Way led the drive toward developing and reporting outcome measurements in the non-profit sector. The United Way of America manual, "Measuring Program Outcomes: A Practical Approach"[23] instructs its programs about how to develop logic models including inputs, activities, outputs and outcomes. The way in which these processes are used varies across the country. Some United Way organizations have provided considerable training for their programs but leave the development of outcomes to the individual organizations. Others have developed community-wide outcomes which programs must address in order to receive funding.

❖ **IOLTA**

Several states' Interest on Lawyers Trust Accounts (IOLTA) programs have developed outcome reporting systems for their grantees. The Arizona, Maryland, New York, Texas and Virginia IOLTA programs have developed reporting systems for outcomes of cases, although not for matters.[24] These states use similar outcome reporting forms. Most of these outcome reports do not require any outcome for advice and brief service cases beyond indicating that the clients received advice.[25] The IOLTA programs use this information in their annual reports and in reports to state legislatures to illustrate the value of the work done by legal services with these funds.[26]

Many IOLTA programs conduct some kind of evaluation of their grant recipients either in the form of desk reviews or monitoring visits. These evaluations include an analysis of a variety of indicators of a quality program including outcome data where it is available.

❖ **Federal Government**

▪ **GPRA**

In an effort to further the goals of GPRA, the National Academy of Public Administration formed the Center for Improving Government Performance and the Performance Consortium which provide support to federal agencies in their effort to implement GPRA.[27] In light of GPRA many federal agencies require outcome reports from their grantees. Below are some examples of federal agencies' use of outcomes in grants to legal service programs.

▪ **Department of Housing and Urban Development**

The U.S. Department of Housing and Urban Development requires outcome reports for its Continuum of Care grants to address the needs of the homeless. The outcomes are specific to this funding and apply to all grantees including case management programs, homeless shelters and legal services. Grantees must report whether their clients' income increased, whether they found safe and permanent housing,

and whether their clients have in some other way stabilized their lives on the way to becoming permanently housed.

- **Department of Justice**

The U.S. Department of Justice is currently developing reporting systems for its grant programs. Many legal services programs receive funding from the Office of Justice Programs (OJP), Violence Against Women Act Civil Legal Assistance to Victims Grants (VAWA). OJP has recently undertaken a three step project to better articulate and measure the impact of its grants.[28] The first step is the "Snap Shot Project", in which OJP gathers in-depth vignettes that tell the story of how its grant funds help keep women safe from domestic violence and sexual assault. The second step is a reporting system that gathers more information about its grantees' work. Much of the information required in this report is similar to the data gathered in the LSC Case Service Reports (CSR) and Matters Service Reports (MSR). To gather even more data OJP will also designate a "census" week during which grantees will obtain and report even more information about their clients and the services the programs provide. OJP and its grantees will extrapolate from this census week data to better understand their client population and the services provided. In step three OJP will develop an outcome measurement system which grantees will begin using in 2005.[29]

- **Department of Health and Human Services**

Many LSC funded programs also receive funds through the Older Americans Act to provide legal services to clients 60 and older. These funds generally originate as federal funds from the Department of Health and Human Services Administration on Aging (AoA) and pass through state and local agencies before they are awarded to legal service programs.[30] The AoA does not require reports on outcomes for these funds. Some state coalitions are developing an outcome measurement system for all elder service providers to use. These states are undergoing a planning process to articulate the state-wide goals for services to seniors and develop a system to measure whether they achieve their goals.[31]

❖ **State and Local Governments**

Many local and state governments have adopted a "governing for results" philosophy in the belief that this approach will lead to higher quality government services.[32] The National Governor's Association Center for Best Practices cites examples of managing for results initiatives in every state.[33] As a result, local and state government contracts and grants often require outcome measurements.[34]

The work of the Judicial Council of California is one example of the impact of states using governing for results. In response to a mandate from the legislature the Judicial Council, which administers the legal services appropriation from the state legislature, is

developing a reporting system for the state funding. This reporting system will capture a variety of information including a voluntary outcome reporting system.

❖ Foundations

Many foundations fund specific projects which meet the foundation's goals and foundations generally require their grantees to report on the impact of the work the foundation funded. How formal that report must be varies tremendously. Some foundations require their grantees to describe the impact. Other foundations have developed sophisticated evaluation tools for their grantees.[35] Some foundations require an outside evaluation at the end of the project while many are satisfied with an organization's self-evaluation.

➢ Legal Services in the United Kingdom

The effort to ensure that low income people receive high quality, effective and efficient legal services is not limited to the United States. The United Kingdom recently substantially changed its legal services delivery system in order to accomplish those goals.[36] The Legal Services Commission in the UK commissioned a comprehensive study which compared various delivery models. The study examined the time spent on cases as well as the quality of the work. To determine quality, the study used peer review of case files, client surveys, model clients, a review of program management, and an examination of outcomes for clients.

➢ Outside Evaluators and Academic Publishing

Outside evaluations are often completed by academics who conduct evaluations as part of their research and publishing work at a university. Outside evaluations can be useful to other legal services programs, particularly when they are published in academic journals or otherwise widely distributed. Articles in academic journals regarding civil legal services have been relatively few in number compared with other components of the justice system.[37] Such articles bring attention to the issues, the clients and the work of programs and the studies test the effectiveness of delivery systems. Below are several examples of recent outside evaluations. These illustrate the impact that such studies can have on the programs evaluated and on legal services in general.

❖ Randomized Experiment

One study conducted in New York City found that pro se litigants faired significantly worse in Housing Court than those litigants represented by attorneys. The study authors conducted a randomized experiment using a treatment and a control group. Both groups were comprised of tenants facing eviction in Housing Court in Manhattan. All were financially eligible for legal services. A housing attorney interviewed all the tenants to determine whether their cases warranted representation, assistance from a paralegal, or advice. Tenants who were determined appropriate for representation were then placed

randomly in either the treatment or control group. The control group received no assistance and the treatment group received representation. The study found that 51% of the control group received a judgment against them compared to only 22% of the treatment group. [38]

❖ **Analysis of determinants**

Another study examined the reasons for the recent decline in reports of domestic violence. The authors of the study analyzed the determinants of women reporting to be victims of domestic violence. They examined the availability of various services designed for domestic violence victims, including domestic violence shelters and legal services. They found that the availability of legal services was the only one that correlated with a decrease in domestic violence. The study concluded that legal services present domestic violence victims with real and long-term options, correlating with the general findings that women with many alternatives in their lives are less likely to be abused. [39]

❖ **Project effectiveness**

The California Endowment funded several California legal services programs to provide information and advocacy to people with problems accessing the health care system. [40] The Endowment required that the grantees retain an outside evaluation team which produced an 84 page report describing the project and its outcomes. The evaluators from the University of Southern California reviewed the work done by the grantees and the impact the work had on the clients' ability to obtain medical services. The evaluators made recommendations about how the project could be more effective and also recommended that funding for the project be increased in order to achieve its objectives.

❖ **Third Party Evaluation**

Some outside evaluations are conducted by evaluators engaged by a third party rather than by the program. The Hotline Study was funded by the Open Society Institute in an effort to evaluate the efficacy of hotlines. While five hotlines participated in the study, they did not retain the persons who conducted it. Through examination of files and follow-up calls to clients the study concluded that there are a number of factors which will increase the likelihood of positive outcomes for clients. Although the study does not belong to any particular program it is being used by many programs to modify the way in which they give advice and brief service to be more effective and to use their resources more efficiently. [41]

➢ **Technical Assistance**

In addition to requiring grantees to track and report outcomes, some funders have focused on encouraging or requiring organizations to go through the process of developing goals, outcomes and indicia of whether those outcomes are achieved. The Annie E. Casey Foundation has developed a tool for its grantees through its Pathways Mapping Initiatives. For example, one of the foundation's goals is to ensure that children are ready for school. The foundation has

developed the steps they believe communities should follow to achieve this goal. These steps, which are made available on the foundation web site, include goals, sub goals, outcome indicators, interim indicators, and actions that will lead to those outcomes. The web site also includes attributes of effectiveness which describe the characteristics that the foundation believes make the recommended actions effective. It also includes evidence to support the effectiveness of those steps and examples of successful programs.[42]

Programs also sometimes seek outside assistance in developing program logic models. As in other kinds of strategic planning it is not uncommon for programs to engage a consultant to assist them in clearly articulating their goals and developing ways to measure whether they have achieved them.

V. WHAT OUTCOMES SHOULD BE MEASURED?

In developing an effective outcome measurement system a program must answer several basic questions. What are our clients' goals? Why are we putting resources into this project or office? What do we want to accomplish? How do we plan to accomplish it?

Some people interviewed stated that they believe the goal for legal services is to provide clients with meaningful access to justice. Others view the goal to be providing access to justice in order to achieve some substantive goal such as preventing homelessness. In spite of these differences, an analysis of the CSR data reported by programs reveals considerable commonality in the types of work programs prioritize. Generally, legal service programs help clients be safe in their homes, obtain decent affordable housing, obtain government benefits to which they are entitled, engage in commerce and access credit, access educational opportunities, access health care, keep their families together and access income to care for themselves and their families. An outcome measurement system could contain these or other broad categories with sub-categories and immediate, interim and end outcomes to accommodate the variations among programs. Some examples of variations in type of work or reasons for engaging in the work are described below.

➢ **Accounting for variations.** Within those broad parameters, different programs have different goals based on local needs and the results of the various state planning processes. Depending upon the other resources available in the community or state a program may choose to handle some types of cases to the exclusion of others. One program may focus resources on an intake, advice and brief services project, while another program may focus on community economic development to develop safe and stable low income housing. Different programs also serve different communities. Some Native American programs focus on maintaining clients' ownership of land through complex tribal processes. Migrant

projects often focus on employment safety and wage issues to the exclusion of other traditional legal services work such as public benefits and family law.

➢ **Different goals lead to different outcomes measured.** Legal services work has many potential outcomes. Which are measured depends upon the goal or goals of a particular funder or program. Two different organizations can do the same kind of work with different goals in mind and will therefore measure different outcomes.

❖ **Drivers Licenses for different reasons.** One organization may represent clients in obtaining restricted drivers' licenses as part of the organization's project to remove barriers that interfere with clients' ability to find and retain employment.[43] Another organization which serves a predominantly rural area may also handle these kinds of cases because the ability to drive is a basic necessity in a rural area with no public transportation. If clients cannot drive they cannot go to the doctor's office or the grocery store. The goal is to help clients obtain access to these basic necessities. The first organization would measure whether their clients have found jobs (end outcome) and whether the client got a drivers license (interim outcome). If clients get drivers licenses but still do not find jobs then the program has not achieved its goals. In contrast, the second organization does not need to track jobs because that was not its goal in providing this same service.

➢ **Outcomes for whom**? Outcomes could be measured for individual clients, for clients and their families, or for the larger client community. Some of these will be more difficult to measure and different programs' goals may focus on outcomes for all or some of these.

➢ **When?** Outcomes can be measured at a number of points during or after an activity. For example, the outcome can be measured at the time a case is closed or some months later. When the outcome is measured will depend on the goal of the activity and the cost and relative value of the measurement. [44]

❖ **Changing outcomes.** If a program represents a client in an eviction case and wins, thereby preventing the eviction, the program could indicate at that time that the outcome was house saved, or homelessness prevented, or job saved, or children kept in school – whatever the appropriate outcome related to the program's goals linked to this case. If the client is evicted six months later, has the outcome changed? Perhaps now the client is homeless. This may be no fault of the program which did a stellar job in the representation, but for the client the outcome is not that homelessness was prevented, just that it was delayed. The information learned by a follow-up with the client may help the program determine that it should focus on educating clients about preventing eviction in addition to representing clients in evictions. Perhaps the program is negotiating settlements with landlords who are using illegal eviction methods. By settling individual cases the program prevents those evictions but opens the door to the same clients being locked out a few months later. Perhaps the clients would be better served and achieve

better outcomes if the legal services program defended the evictions in court rather than settling.

➢ **Measure all or some**? In order to obtain a comprehensive set of outcome data programs would indicate the outcome for every case and matter they handle, both at the end of the activity and at some later time. Less expensive alternatives to measure some of the work done by legal services programs may provide reliable data.

❖ **Extended Service Cases**. Outcomes could be noted for all extended service cases at the time the case is closed. The outcome at a later time could be indicated for only a sample of those cases. Options for sampling might include a "census" week or month as used by OJP for its VAWA grants, random sampling throughout the year, or the targeted use of some national studies.

❖ **Advice and Brief Service Cases.** Generally the outcome of an advice or brief service case will not be known to the program at the time the case is closed. Some follow up would be required. The options of random sampling may prove valuable and affordable.

❖ **Matters.** Measuring outcomes for matters would prove the most difficult. For some matters, such as distribution of community legal education materials, programs may not even know who benefited, while other matters, such as referrals, involve only a brief contact with the applicant. Random sampling as described above or convening focus groups may provide valuable outcome information.

➢ **Tracking complexity**. Programs undertake some cases and matters which are complex and challenging and others which are relatively routine. To reflect this, cases and matters could carry a complexity code indicating whether the case was contested, whether the project was the first of its kind, or whether the goal was particularly difficult or relatively simple to achieve. This weighting system would be valuable when analyzing data to determine best practices and the effectiveness of various service delivery options. This would also address the concern among some of the people interviewed that an outcome measurement reporting system may encourage programs to "cream" their work, taking easy cases that are more likely to result in positive outcomes while rejecting more difficult cases that are more important to clients.[45]

VI.   SOME CONCERNS AND POSSIBLE SOLUTIONS

Most people interviewed indicated that they saw value in programs measuring outcomes as discussed in Section III. Some people interviewed also raised some concerns about measuring outcomes. Following is a discussion of a number of the concerns raised during interviews and ways in which program experience[46] or literature on outcomes suggests they might be addressed.

➢ **Minimize burden and maximize benefit.** Several people interviewed expressed concerns that any outcome measurement system developed place the least possible burden on programs in the development of the system, in the on-going tracking of outcomes and in reporting the information. The burden on programs can be minimized in a number of ways, including:

❖ Share the burden of development so that each program does not need to reinvent the wheel;
❖ Provide on-going training to legal services managers, attorneys and administrators to ensure that they are able to use outcome data and experience the full benefit of measuring outcomes in addition to reporting to funders;
❖ Use case management systems to efficiently track and report outcomes;
❖ Where possible use data that is currently gathered by programs for information about inputs, activities, outputs and outcomes;
❖ Develop clear definitions and systems so that outcome information is reliable, as was accomplished in the development of the MSR;
❖ Develop common additional data that could be gathered about inputs, activities and outputs so that programs can obtain a clearer picture about their clients and the work they do for them; and
❖ Encourage other funders to accept common output and outcome reports so that programs can use one set of data to report to multiple funders.

➢ **Varied experience.** There is some concern that legal service programs do not have enough experience with outcomes to develop a useful system. Another related concern is that those programs that have recently undergone reconfiguration may not be well situated to undertake another change such as adopting a new outcome measurement system. While apparently most legal service programs measure some outcomes there is a wide variance in programs' experience with outcomes. Programs that have little experience with outcomes or that are less able to take on another change could benefit from training, peer support and other support systems discussed below. Programs that have recently reconfigured may find that development of a program logic model may assist them in their planning process and help their staff and board focus on their programs' goals. Finally, the recent experience at LSC in developing the MSR system evidenced the value of a diverse development committee and pilots to work out any problems with a data gathering system prior to deployment.

➢ **Comparability**. There was concern among some persons interviewed that outcome data would be used to unfairly compare programs, given the many differences between programs such as variance in costs they must incur, different state laws, disparate resources available to their programs and clients, and difference in legal and social environments in which they operate. This concern also arises from the belief that the value of legal services work can never be totally captured by measuring outcomes. It may not be possible to measure all outcomes either because doing so would be too burdensome or because some more intangible values, such as enabling low income people to have a voice in our judicial system, cannot be fully measured.

When offices, projects or organizations do not achieve anticipated positive outcomes further inquiry is necessary to determine why. Given all of the potential reasons for failing to achieve goals, and given the diversity among offices, projects and programs, outcome data alone cannot be used to judge performance or quality. However, it is one piece of information that can be used to determine whether a program is performing well. By including indicia of the difficultly of cases and matters as well as documenting the reason for any failure to achieve a positive outcome, outcome data is even more helpful in gaining an understanding of a program's work.

➢ **Measuring for the report.** Some of those persons interviewed expressed a concern that if a national outcome measurement system is developed programs' incentive will be to report positive outcomes, but not to use outcome data to improve services or reap the other benefits discussed in Section III. In order to address this concern an outcome measurement system could track the connection between outcomes and the strategies and resources used to achieve them. Programs could receive training about the benefits of engaging in planning and analyzing outcome data and tools to help them.

VII. WHAT NEXT?

There are many possible paths which LSC and the legal services community can follow to achieve their goals of ensuring positive outcomes for clients and using resources most effectively and efficiently. These paths can be organized generally into two options for LSC:

1) Encourage or require programs to develop customized outcome measurement systems;

        or

2) Develop a national outcome measurement system.

These two options can be similarly developed and there are many options within these two groupings. For example, customized local systems could be developed within a set of

parameters so that national data is gathered. A national system could be developed so that programs could customize it to accommodate their own priorities and local goals and engage in the planning necessary to develop their own program logic models. In choosing which path to take, the questions to be considered include: which system can address LSC's and the legal services community's goals; which system can best address the concerns raised above; and which system can ensure that LSC and legal service programs are able to reap the maximum benefits from measuring outcomes.

Whether the focus is on a national or a locally developed system, there are many supports that can be provided to help ensure the development of the best possible outcome measurement system. Some of the supportive systems are discussed below. All of these can be used to support either locally developed or a national system and can be used together. They include:

❖ **Clearinghouse.** LSC could fund or become or encourage a clearinghouse for studies and evaluations conducted about legal services. This would be valuable to programs as they develop and modify service delivery methods, allocate resources and raise funds.

❖ **Encourage social scientific studies.** LSC could work with various journals and academic institutions which address the justice system. LSC could encourage more academic studies of legal services including longitudinal studies of the impact of legal services on clients and communities. Such studies could provide information about the longer term impact of legal services and the efficacy of various service delivery systems.

❖ **Training and On-site Assistance.** LSC could fund a training program for managers and other legal services leaders about how to develop and use outcome measurement systems. LSC could subsidize the costs for on-site assistance to help programs develop customized program logic models, analyze the data gathered, and continually examine their work through the lens of its impact on the target population. There have been various workshops on outcomes measurements at national and regional conferences. Additional training events would raise the level of interest in and knowledge about outcomes, and on-site assistance for individual programs could help programs accomplish meaningful planning.

❖ **Tool kit.** LSC could develop a web-enabled tool kit which programs could use to develop their own customized outcome measurement systems. The tool kit would facilitate the programs' planning process so that each program did not re-invent the wheel. Programs could develop outcome measures for the work they do. Programs could choose to measure the outcome of some but not all of their work. The tool kit could include best practices that LSC believes will lead to quality work and positive outcomes for clients. The burden of developing an outcome measurement system could be centralized and shared. Common definitions and categories could be used so that data generated using the tool kit could be gathered nationally.

❖ **Pilots.** LSC could develop several outcome measurement systems. These could be piloted for 1 – 2 years by a diverse group of programs, including large and small, urban and rural, those with few and those with multiple grants, and those with varying levels of technology and administrative support. Some of the systems could include matters and others only cases. The experience of the programs piloting these systems would be documented, including resources expended and benefits gained. These pilots would help gauge the costs and benefits of several different outcome measurement systems.

❖ **Grants for pilots.** LSC could develop a competitive grant program similar to the TIG program. Programs interested in developing an outcome measurement system would apply for the grants. They would document their learning, including the resources required to develop and maintain their system and benefits they experience. These learnings could be shared with other programs. This would help programs with some experience and interest in outcomes to move forward and all programs could learn from that experience.

Conclusion

This is a preliminary report, drafted and distributed for the purpose of presentation at the Outcomes, Performance Measures and Quality Assessment Summit on June 21. It is intended to capture the current state of outcomes measurement in legal services and discuss some options for moving that forward to better accomplish the goals of LSC and the legal services community. Following the June 21 Summit a final report will be issued, incorporating the discussion at the Summit and any further research and interviews required.

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[1] Colleen M. Cotter is a consultant engaged by LSC for this project. Cotter is an attorney and has worked in legal services since 1991. She has held various positions in legal services as a casehandler, administrator and manager. She previously served on the National Legal Aid and Defender Association Civil Policy Group and Board. She also was a member of the Legal Services Corporation State Planning Evaluation Instrument Design Team.

[2] 42 U.S.C. § 2996f(a)(1) and (3).

[3] Legal Services Corporation Strategic Directions 2000 – 2005. In 2003 the newly appointed LSC Board of Directors confirmed that it would continue to lead LSC using the strategic plan adopted by the former LSC Board in January 2000.

[4] Strategic Directions, p. 4.

[5] Strategic Directions, p. 7.

[6] Strategic Directions, p. 8.

[7] For the full text of GPRA, see www.napa.wash.org. LSC is not required to comply with GPRA.

[8] This report focuses on outcomes and ways to measure outcomes. It does sometimes refer to other performance measurements, and to quality assessment, but for the most part limits the discussion to outcomes, which are one way to measure performance and is closely related to quality.

[9] "Performance Measurement: Getting Results" by Harry Hatry, The Urban Institute, 1999, p. 13. See also "Logic Model Development Guide: Using Logic Models to Bring Together Planning, Evaluation & Action", W.K. Kellogg Foundation, 2001; "Measuring Program Outcomes: A Practical Approach", United Way of America, 1996.

[10] The State Planning Evaluation Instrument Design Team defined "client-centeredness" as a system in which the "client service delivery structure and resource allocation are driven by client community input and by information relating to client demographic, characteristics, critical needs and barriers to service delivery."

[11] "Performance Measurement: Getting Results", p. 13.

[12] See "Performance Measurement: Getting Results" by Harry Hatry, The Urban Institute, 1999; "Logic Model Development Guide: Using Logic Models to Bring Together Planning, Evaluation & Action", W.K. Kellogg Foundation, 2001; "Measuring Program Outcomes: A Practical Approach", United Way of America, 1996.

[13] The values described in this section are taken in large part from the various interviews conducted of representatives of programs and funders, as well as from various sources in the appendix.

[14] A number of IOLTA programs have used outcome information very effectively to increase or maintain state funding for legal services.

[15] For additional information on uses for outcome data, see "Making Use of Outcome Information for Improving Services: Recommendations for Nonprofit Organizations", Elaine Morley, Harry Hatry, Jake Cowan, The Urban Institute, 2002. The authors found that most non-profits did not make as much use of the outcome information they gathered as they could be.

[16] The Hotline Study found that clients whose first language was not English were less likely to achieve positive results even when they received advice in their native language. See "The Hotline Outcomes Assessment Study – Phase III Final Report: Full Scale Telephone Survey", by Jessica Pearson and Lanae Davis with appendix by Bob Echols and Julia Gordon. 2002.

[17] See Hotline Study.

[18] Evaluation of the Health Consumer Alliance and the Health Rights Hotline, University of Southern California Keck School of Medicine, Department of Family Medicine, Division of Community Health, Michael R. Cousineau, Dr. PH, and Lori Miller Nascimento, MPH., 2003.

[19] See "Performance Measurement: Getting Results" by Harry Hatry, The Urban Institute, 1999. In addition, Cincinnati Legal Aid produces quarterly reports for all of its units and projects. Where there are deviations from the projections, the manager responsible must analyze the data, determine the reason for it, and report this to the program management. This keeps the organization on target.

[20] One program whose executive director was interviewed for this project indicated that her organization tracks outcomes for all of their cases, no matter the funding source. Another executive director indicated that his program tracks outcomes only where a funding source requires it, such as for their driver's license project.

[21] Of the 167 organizations receiving LSC funds in 2002, 124 received AoA funds, 113 received VAWA funds, 44 received block grants, 139 received state grants, 111 received local grants, 112 received United Way funds, and 102 received foundation grants. For further explanation of these funders, see the discussion below.

[22] The State Planning Evaluation Instrument Design Team discussed including a section to measure outcomes for clients, but determined that such a measurement would require a new reporting system, which was not practical for the design team to develop. They therefore agreed to not address outcomes for clients in the evaluation instrument.

[23] See "Measuring Program Outcomes: A Practical Approach", United Way of America, 1996.

[24] Arizona's system is optional while the other states' systems are mandatory.

[25] Using the definitions above, this should probably be considered an output, not an outcome, as it does not indicate how receiving the advice impacted upon the client, but simply reflects that the program provided the advice.

[26] The New York IOLA program uses the outcome information to illustrate the amount of dollars that legal services programs bring into the state.

[27] The Center for Improving Government Performance published a "Managing for Results Series", including "Performance Management: A 'Start Where You Are, Use What You Have' Guide", by Chris Wye, Director, Center for Improving Government Performance, National Academy of Public Administration (NAPA), October 2002. NAPA also hosts an annual "Performance Conference" for federal agency managers.

[28] OJP has contracted with the University of Southern Maine, Muskie Institute to develop these.

[29] OJP has also retained an evaluator, to evaluate the programs themselves.

[30] There are some AoA funds that are granted directly to legal service programs, such as the Senior Hotline grants.

[31] The Center for Social Gerontology is working with several states to develop these systems.

[32] See "Making Results-Based State Government Work", Blaine Liner, Harry P. Hatry, Elisa Vinson, Ryan Allen, Pat Dusenbury, Scott Bryant, Ron Snell, The Urban Institute, 2001.

[33] See www.nga.org/center/divisions

[34] At least one program indicated that one local government funder is moving to an outcome based funding system. The funder will release funds due under their contract only when the program achieves outcomes as agreed.

[35] See "Logic Model Development Guide: Using Logic Models to Bring Together Planning, Evaluation & Action" W. K. Kellogg Foundation, 2001.

[36] Quality and Cost: Final Report on the Contracting of Civil, Non-Family Advice and Assistance Pilot, Richard Moorhead, Avrom Sherr, Lisa Webley, Sarah Rogers, Lorraine Sherr, Alan Paterson and Simon Domberger, The Legal Services Commission, 2001.

[37] There are a number of associations that examine law and society issues which may be convinced of the academic value in studying legal services work.

[38] "The Impact of Legal Counsel on Outcomes for Poor Tenants in New York City's Housing Court: Results of a Randomized Experiment", *Law and Society Review*, v.35, n.2, 2001, Carroll Seron, Gergg Van Ryzin, Martin, Frankel, Jean Kovath. This study was actually conducted as a condition of funding of the housing court tenant representation project and was later published.

[39] "Explaining the Recent Decline in Domestic Violence", By Amy Farmer and Jill Tiefenthaler. The study found that the decrease is also due to the increased education level for women because it increased economic opportunity, and the aging of the population.

[40] Evaluation of the Health Consumer Alliance and the Health Rights Hotline, University of Southern California Keck School of Medicine, Department of Family Medicine, Division of Community Health, Michael R. Cousineau, Dr. PH, and Lori Miller Nascimento, MPH., 2003.

[41] See Hotline Study.

[42] Annie E. Casey Foundation, www.aecf.org/pathways

[43] This example is taken from the Legal Aid Foundation of Los Angeles.

[44] If follow up is done consistently, programs can develop better means of tracking clients into the future, such as getting several alternative contact numbers or addresses, and informing the client that there will be follow up. Follow up is most difficult when this information is not gathered at the front end. In addition, the follow up can also be used to give additional assistance if needed.

[45] Although this concern was expressed during interviews, some persons interviewed suggested that such a view is disrespectful to legal services programs and staff.

[46] If follow up is done consistently, programs can develop better means of tracking clients into the future, such as getting several alternative contact numbers or addresses, and informing the client that there will be follow up. Follow up is most difficult when this information is not gathered at the front end. In addition, the follow up can also be used to give additional assistance if needed.